

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

REYNA GUTIERREZ,

Plaintiff,

v.

FAMILY DOLLAR STORES OF TEXAS,
LLC

Defendant.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. _____
JURY TRIAL DEMANDED

DEFENDANT FAMILY DOLLAR STORES OF TEXAS, LLC'S
NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441, Defendant, Family Dollar Stores of Texas, LLC, hereby removes to this Court, the state court action described in Paragraph 1 below. Pursuant to 28 U.S.C. § 1446(a), Defendant sets forth the following "short and plain statement of the grounds for removal."

A. THE REMOVED CASE

1. The removed case is a civil action filed with the 149th Judicial District Court of Brazoria County, Texas, on July 27, 2022, styled *Reyna Gutierrez v. Family Dollar Stores of Texas, LLC*, Cause No. 118886-CV.

B. DOCUMENTS FROM REMOVED ACTION

2. Pursuant to FEDERAL RULE OF CIVIL PROCEDURE 81 and 28 U.S.C. § 1446(a), Defendant attaches the following documents to this Notice of Removal:

(a) A list of all parties in the case, their party type and current status;

- (b) a civil cover sheet and certified copy of the state court docket sheet; a copy of all pleadings that assert causes of action (e.g., complaints, amended complaints, supplemental complaints, petitions, counterclaims, cross-actions, third party actions, interventions, etc.); all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this court, as required by 28 U.S.C. § 1446(a);
- (c) a complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number and party or parties represented by her;
- (d) A record of which parties have requested trial by jury; and
- (e) The name and address of the court from which the case is being removed.

C. REMOVAL PROCEDURE

3. Except as otherwise expressly provided by Act of Congress, any civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed to the United States District Courts for the district and division embracing the place where the action is pending. 28 U.S.C. § 1441. The Galveston Division of the Southern District Court of Texas is the United States District and division embracing Brazoria County, Texas, and the county in which the State Court Action is pending.

4. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings and orders in the State Court Action as of the date of this pleading are attached hereto as ***Exhibit "A"*** and incorporated herein for all purposes.

5. Defendant will promptly give all parties written notice of the filing of this Notice of Removal and will file a copy of this Notice of Removal with the Clerk of the 149th Judicial District Court, of Brazoria County, Texas, where the State Court

Action is currently pending.

D. REMOVAL IS TIMELY

6. Plaintiff, Reyna Gutierrez ("Plaintiff"), filed the present civil suit against Defendant in the 149th Judicial District Court, of Brazoria County, Texas (the "Brazoria County Court") on July 27, 2022. Defendant was served with Plaintiff's Original Petition ("the Petition") on July 29, 2022. In the Petition, Plaintiff asserts negligence-based causes of action and claims for personal injury damages against Defendant.

7. Defendant has filed this Notice of Removal on the first available business day that falls within thirty days after receiving papers indicating that the present lawsuit was filed in the Brazoria County court, and subsequently became removable to the United States District Court for the Southern District of Texas. Therefore, Defendant contends that this removal is timely made.¹

E. VENUE IS PROPER

8. The United States District Court for the Southern District of Texas, Galveston Division, is the proper venue for removal of the state court action pursuant to 28 U.S.C. § 1441(a) because the 149th Judicial District Court, of Brazoria County, Texas is located within the jurisdiction of the United States District Court for the Southern District of Texas, Galveston Division.

F. DIVERSITY OF CITIZENSHIP EXISTS

9. This is a civil action relating to a negligence claim that falls under the

¹ See, 28 U.S.C. § 1446(b).

Court's original jurisdiction pursuant to 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446.

10. As admitted in the Petition, Plaintiff is a resident and a citizen of Brazoria County, Texas and is domiciled there.²

11. Defendant Family Dollar Stores of Texas, LLC is a foreign Limited Liability Company organized and existing under the laws of the Commonwealth of Virginia. Family Dollar Stores of Texas, LLC is a citizen of the Commonwealth of Virginia, and its principal place of business is located at 500 Volvo Parkway in the City of Chesapeake, Commonwealth of Virginia. As a Limited Liability Company, Family Dollar Stores of Texas, LLC is comprised of individual members and one managing member entity – Family Dollar Stores of Ohio, Inc., which has a 100% interest in Family Dollar Stores of Texas, LLC. The business address for all of the individual members and the managing member entity of Family Dollar Stores of Texas, LLC is 500 Volvo Parkway, City of Chesapeake, in the Commonwealth of Virginia.

12. All of the individual members of Family Dollar Stores of Texas, LLC, which includes Beth Berman, Sandra L. Boscia, Linde Carley, Jonathan Elder, Bradley Hunter, Michael Matacunas, Deborah Miller, William A. Old, Jr., Gary Philbin, Robert L. Rogers, Thomas E. Schoenheit, Shawnta Totten-Medley and Kevin Wampler, are all citizens of

² See, Plaintiff's Original Petition at p. 2, ¶ 1

the Commonwealth of Virginia. The identity and titles of the individual members of Family Dollar Stores of Texas, LLC are as follows:

- Beth Berman Vice President/Deputy General Counsel / Assistant Secretary
- Sandra L. Boscia Assistant Secretary
- Linde Carley Assistant Secretary
- Jonathan Elder Vice President – Tax
- Bradley Hunter Vice President – Finance
- Michael Matacunas Chief Administrative Officer
- Deborah Miller Vice President
- William A. Old, Jr. Senior Vice President / General Counsel / Secretary
- Gary Philbin President / Chief Operating Officer
- Robert L. Rogers Senior Vice President / Real Estate
- Thomas E. Schoenheit Vice President / Assistant General Counsel / Assistant Secretary
- Shawnta Totten-Medley Vice President / Assistant Secretary
- Kevin Wampler Executive Vice President / Chief Financial Officer

13. Because the Plaintiff is a resident of the State of Texas and Defendant FAMILY DOLLAR'S and all of its members are residents and citizens of the State of Virginia, complete diversity of citizenship exists pursuant to 28 U.S.C. § 1332.

G. THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

14. In the Original Petition, the Plaintiff alleges that she seeks damages of "monetary relief over \$250,000.00 but not more than \$1,000,000."³

15. Based on the aforementioned facts, the State Court Action may be removed to this Court by FAMILY DOLLAR in accordance with the provisions of 28 U.S.C. § 1441(a) because: (i) this is a civil action pending within the jurisdiction of the United States District Court for the Southern District of Texas; (ii) this action is

³ *Id.* at p. 1, ¶ 1.

between citizens of different states; and (iii) the amount in controversy as specifically pled by the Plaintiff, exceeds \$75,000, exclusive of interest and costs.

H. FILING OF REMOVAL PAPERS

16. Pursuant to 28 U.S.C. § 1446(d), Defendant is providing written notice of the filing of this Notice of Removal to all counsel of record and is filing a copy of this Notice with the Clerk of the 149th Judicial District Court, of Brazoria County, Texas, where this action was originally commenced.

I. CONCLUSION

17. Defendant hereby removes the above-captioned action from the 149th Judicial District Court, of Brazoria County, Texas, and requests that further proceedings be conducted in the United States District Court for the Southern District of Texas, Galveston Division, as provided by law.

Respectfully submitted,

MAYER LLP

2900 North Loop West, Suite 500
Houston, Texas 77092
713.487.2000/Fax 713.487.2019

By: /s/ Jason M. Gunderman

Kevin P. Riley
State Bar No. 16929100
Federal Bar No. 13776
E-Mail: kriley@mayerllp.com
Jason M. Gunderman
State Bar No. 24085349
Federal Bar No. 3395605
E-Mail: jgunderman@mayerllp.com

***Attorneys for Defendant
Family Dollar Stores of Texas, LLC***

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on August 26, 2022, the foregoing *Defendant Family Dollar Stores of Texas, LLC's Notice of Removal* was electronically filed, as required by the United States District Court for the Southern District of Texas, using the Court's CM/ECF filing system, which will provide notice and a copy of this document, with attachments, to the following, who are indicated to be registered ECF filers in the United States District Court for the Southern District of Texas:

Mathew E. Mendoza
W. Clark Martin IV
THE MARTIN LAW FIRM, PLLC
720 West Alabama Street
Houston, Texas 77006

Counsel for Plaintiff

☒ E-MAIL:
☐ HAND DELIVERY
☐ FACSIMILE
☐ OVERNIGHT MAIL
☐ REGULAR, FIRST-CLASS MAIL
☒ CM/ECF
☐ CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Jason M. Gunderman
Jason M. Gunderman

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

REYNA GUTIERREZ,

Plaintiff,

v.

FAMILY DOLLAR STORES OF TEXAS,
LLC

Defendant.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. _____
JURY TRIAL DEMANDED

COUNSEL OF RECORD AND INFORMATION
PURSUANT TO 28 U.S.C. § 1446(A)

(1) A list of all parties in the case, their party type (e.g., plaintiff, defendant, intervenor, receiver, etc.) and current status of the removed case (pending, dismissed);

Plaintiff *Reyna Gutierrez*

Defendant *Family Dollar Stores of Texas, LLC*

The removed case is currently pending.

(2) A civil cover sheet and a certified copy of the state court docket sheet; a copy of all pleadings that assert causes of action; all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this court, as required by 28 U.S.C. § 1446(a);

See attached civil cover sheet and documents attached to Defendant's Notice of Removal as *Exhibit "A."*

(3) A complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number and party or parties represented by her;

***Counsel for Plaintiff
Reyna Gutierrez***

Mathew E. Mendoza
State Bar Number: 24109548
Email: mendoza@waltermartinlaw.com
W. Clark Martin IV
State Bar Number: 24076535
Email: clark@waltermartinlaw.com
The Martin Law Firm, PLLC
720 West Alabama Street
Houston, Texas 77006
Phone: 713-651-1037/ Fax: 888-651-1866

***Counsel for Defendant
Family Dollar Stores of Texas, LLC***

Kevin P. Riley
State Bar No. 16929100
E-Mail: kriley@mayerllp.com
Jason M. Gunderman
State Bar No. 24085349
E-Mail: jgunderman@mayerllp.com
MAYER LLP
2900 North Loop West, Suite 500
Houston, Texas 77092
P: 713.487.2000 / F: 713.487.2019

(4) A record of which parties have requested a trial by jury (this information is in addition to placing the word "jury" at the top of the Notice of Removal immediately below the case number); and

- Defendant has requested a trial by jury.

(5) The name and address of the court from which the case is being removed.

149th Judicial District Court
111 E. Locust Street
Angleton, Texas 77515
979.849.5711